

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

ERIC FORSYTHE, et al.,

Plaintiffs,

v.

SUN LIFE FINANCIAL, INC., ET AL.,

Defendants.

No. 04-10584-GAO

Consolidated Cases Nos.:

04-10764-GAO

04-11019-GAO

**MOTION FOR LEAVE  
TO SUBMIT SUPPLEMENTAL AUTHORITY**

Pursuant to Local Rule 7.1(B)(3), Defendants respectfully request leave to submit as supplemental authority in support of their Motion to Dismiss the Consolidated Amended Complaint a recent decision of the U.S. District Court for the District of Massachusetts, In re Columbia Entities Litig., No. 04-11704-REK (Nov. 30, 2005) (Keeton, J.) (attached as Ex. A to Defendants' Memorandum filed herewith), and a recent decision of the U.S. District Court for the Southern District of New York, In re Eaton Vance Mutual Funds Fee Litig., slip op., No. 04-1144 (S.D.N.Y. Dec. 6, 2005) (hereinafter "Eaton Vance") (attached as Ex. B Defendants' Memorandum filed herewith). Counsel for plaintiffs assent to the filing of these decisions with the Court but oppose the filing of Defendants' memorandum in support thereof.

Dated: December 9, 2005

Respectfully Submitted,

Sun Life Financial, Inc., Massachusetts Financial  
Services Co., and MFS Fund Distributors, Inc.,

By their attorneys,

/s/ Jonathan A. Shapiro

Jeffrey B. Rudman (BBO #433380)  
William H. Paine (BBO #550506)  
Jonathan A. Shapiro (BBO #567838)  
Amanda P. Masselam (BBO #641108)  
Matthew A. Stowe (BBO #650473)  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
60 State Street  
Boston, MA 02109  
(617) 526-6000

Jeffrey L. Shames,

By his attorneys,

/s/ James C. Rehnquist (JAS by permission)

James C. Rehnquist (BBO #552602)  
Abigail K. Hemani (BBO #650721)  
GOODWIN PROCTER LLP  
Exchange Place  
53 State Street  
Boston, MA 02109

John W. Ballen,

By his attorneys,

/s/ John J. Falvey (JAS by permission)

John J. Falvey, Jr. (BBO # 542674)  
GOODWIN PROCTER LLP  
Exchange Place  
53 State Street  
Boston, MA 02109

Kevin J. Parke,

By his attorneys,

/s/ George J. Skelly (JAS by permission)  
George J. Skelly (BBO #546797)  
David M. Ryan (BBO #644037)  
NIXON PEABODY LLP  
101 Federal Street  
Boston, MA 02110

Lawrence H. Cohn, William R. Gutow,  
J. Atwood Ives, Abby M. O'Neill, Lawrence T.  
Perera, William J. Poorvu,  
J. Dale Sherratt, Elaine R. Smith,  
and the MFS Funds,

By their attorneys,

/s/ John D. Donovan (JAS by permission)  
John D. Donovan (BBO #130950)  
Jane E. Willis (BBO #568024)  
ROPES & GRAY LLP  
One International Place  
Boston, MA 02110

**LOCAL RULE 7.1(a)(2) CERTIFICATION**

The undersigned counsel for the MFS defendants hereby certifies that on December 8, 2005, he conferred by telephone with plaintiffs' counsel, Nancy Gans, in a good faith attempt to resolve or narrow the issues raised in this Motion. Ms. Gans assented to the filing of the Columbia and Eaton Vance opinions as supplemental authority but not the brief filed in support thereof.

/s/ Matthew A. Stowe (JAS by permission)  
Matthew A. Stowe

Dated: December 9, 2005

**CERTIFICATE OF SERVICE**

I, Matthew A. Stowe, hereby certify that on December 9, 2005, I caused a copy of the foregoing document to be served either electronically or by overnight mail upon counsel for plaintiffs.

/s/ Matthew A. Stowe (JAS by permission)  
Matthew A. Stowe

Dated: December 9, 2005